

Entered -12-4-01 sb  
CL 01L0763 - GWENDOLYN BURNS

CLAIM OF:

**SHELDON SCHLEGMAN**  
1641 Mt. Paran Road  
Atlanta, Georgia 30327

02- *R* -0789

For damages alleged to have occurred as a result of the City of Atlanta erroneously issuing a permit to have a tree removed on October 25, 2001 at 1641 Mt. Paran Road.

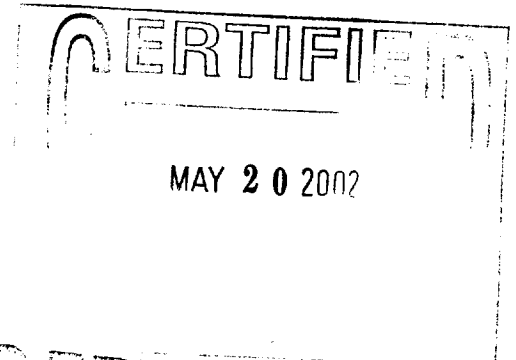
THIS ADVERSED REPORT IS  
APPROVED

BY:

*Robert N. Godfrey*  
**Robert N. Godfrey**  
**DEPUTY CITY ATTORNEY**

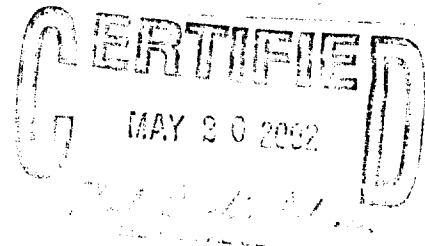
ADVERSED BY  
CITY COUNCIL MAY 20

CONSENT AGEND.



**ADVERSE REPORT**

COMM. *Public Safety*  
DATE *5/14/02*  
CHIEF *[Signature]*  
*Capla Sydn*  
*Cela Henslow*  
*H. S. Smith*  
*C. T. Martin*  
*[Signature]*  
*Walter Archibald*





**CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK**

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103

May 31, 2002

Sheldon Schlegman  
1641 Mt. Paran Road  
Atlanta, GA 30327

02-R-0789

Dear Mr. Schlegman:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on May 20, 2002. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Sincerely,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

cc: Claims Division/Law Department

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0763

Date: May 2, 2002

Claimant /Victim SHELDON SCHLEGMAN  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: 1641 Mt. Paran Road, Atlanta, Georgia 30327  
Subrogation: \_\_\_\_\_ Claim for Property damage \$ \_\_\_\_\_ Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 11/19/01 Method: Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 10/25/01 Place: 1641 Mt. Paran Road  
Department PLANNING DEVELOPMENT & NEIGHBORHOOD CONSERVATION Division Buildings  
Employee involved Neal Lumsden Disciplinary Action: \_\_\_\_\_

**NATURE OF CLAIM:** Claimant alleges that he sustained damages when the City erred in issuing a permit to have an oak tree removed from his property. An investigation determined that the permit was obtained by claimant's neighbors and the tree was removed by Tolbert Tree Service. The claimant has been advised that his cause of action lies against the neighbors because the City is not responsible for the actions of a third party. More significantly, the City is immune from liability as provided in O.C.G.A. §36-33-1.

### INVESTIGATION:

Statements: City employee X Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral X  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other \_\_\_\_\_  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_


### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other X Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - GWENDOLYN BURNS

### RECOMMENDATION:

Pay \$ \_\_\_\_\_ Adverse X Account charged: 1A01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2P01 \_\_\_\_\_ 2H01 \_\_\_\_\_  
Claims Manager:  Concur/date 05-03-02  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

RCS# 3731  
5/20/02  
2:33 PM

Atlanta City Council

Regular Session

CONSENT I            PGS. 1-15: Except 02-O-0852; 02-R-0729

ADOPT

YEAS: 12  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
NV Young	Y Shook	Y Maddox	B Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

CONSENT AGENDA MAY 20, 2002

ITEMS ADOPTED ON THE  
CONSENT AGENDA

02-R-0813	02-R-0753
02-R-0812	02-R-0754
02-R-0807	02-R-0755
02-R-0805	02-R-0756
02-R-0721	02-R-0757
02-R-0504	02-R-0758
02-R-0808	02-R-0759
02-R-0708	02-R-0760
02-R-0707	02-R-0761
02-R-0882	
02-R-0881	
02-R-0809	
02-R-0798	
02-R-0797	
02-R-0732	
02-R-0706	
02-R-0724	
02-R-0802	
02-R-0888	
02-R-0887	
02-R-0733	
02-R-0731	
02-R-0728	
02-R-0727	
02-O-0846	
02-O-0830	
02-O-0703	
02-O-0699	
02-O-0671	
02-O-0606	
02-O-0605	
02-O-0833	
02-O-0601	
02-O-0488	
02-O-0836	
02-O-0845	
02-O-0844	
02-O-0843	
02-O-0835	
02-O-0834	
02-O-0603	
02-R-0735	
02-R-0752	

ITEMS ADVERSED ON THE  
CONSENT AGENDA

02-R-0762
02-R-0763
02-R-0764
02-R-0765
02-R-0766
02-R-0767
02-R-0768
02-R-0769
02-R-0770
02-R-0771
02-R-0772
02-R-0773
02-R-0774
02-R-0775
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02-R-0787
02-R-0788
02-R-0789
02-R-0790
02-R-0792
02-R-0793
02-R-0794
02-R-0795
02-R-0796